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09/683,787	02/14/2002	David P. Lobeck	DL01	2195

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EXAMINER

MENDOZA, ROBERT J

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/683,787

Applicant(s)

LOBECK, DAVID P.

Examiner

Robert J Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-13, 15-18 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 9, 14 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION****Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 2, 4, 10-13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco (USPN 5,735,751).**

Lee illustrates, in FIG. 4, a golf practice device comprising a body that has vertical sides that can be struck by a moving golf ball. Lee illustrates, in FIG. 1, a body having a head portion and a base. Lee illustrates, in FIG. 2, a base consisting of a pin that can be pushed into the ground. Lee illustrates, in FIG. 4:2, the sides that struck by the golf ball are cylindrical. However, Lee lacks in disclosing all the electrical components claimed to produce a electronic sound when a golf ball strikes the golf practice device. Pacheco, in an analogous golf practice device, teaches, in col. 2:56-67, col. 3:1-28 & FIG. 5, a golf practice comprising a battery, an electronic sound generator that produces an *audible sound* to provide feedback to the golfer, a sensor switch, and an on-off switch. Pacheco also teaches, in FIGS. 2-5, the sensor switch closes the electrical circuit when the golf practice device is struck by a ball coming from any direction. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Pacheco into the disclosed invention of Lee. One would be motivated to combine the teachings of Pacheco with the disclosed invention of Lee in order

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to, provide informational feedback to a golfer, and increase a player's excitement when utilizing the golf practice device.

**Claims 5, 6, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco (USPN 5,735,751).**

The disclosures of Lee and Pacheco have been discussed above and are, therefore, incorporated herein. However, Lee and Pacheco lack in disclosing the sound is that of a ball falling into a cup or a human voice. As discussed above, Pacheco taught a sound synthesizer that produces a sound when the golf ball hits the target (col. 3:25-33). Although Pacheco does not explicitly disclose the type of sound produced by the sound synthesizer, the selection of sound is merely a matter of design choice. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the sound of a ball falling into a cup or a human voice into the disclosed inventions of Lee and Pacheco. One would be motivated to implement the sound of a ball falling into a cup or a human voice into the disclose inventions of Lee and Pacheco in order to, diversify the selection of sounds that can be heard by the sound synthesizer.

**Claims 3, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco (USPN 5,735,751) in further view of Irving (USPN 5,259,622).**

The disclosures of Lee and Pacheco have been discussed above and are, therefore, incorporated herein. Pacheco also discloses a method of improving putting accuracy comprising placing a golf practice device on a carpet and putting golf balls at the golf practice device by disclosing in col. 3:25-28, the golfer places putting target on the outdoor practice green or indoor carpet in a desired location. Then the golfer sets up a putt on the target. As the ball rolls over the

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target, it depresses flexible molded pressure bars. However, Lee and Pacheco lack in disclosing the bottom of the body is attached to a material made of small hooks, whereby the golf practice device can be releasably attached to a fabric. Irving teaches, in col. 4:36-50 & fig. 4, as seen in figs. 1, 2, and 3, artificial turf may be provided on an upper surface of the platform for attempted realism. In such an instance, a circular portion of the turf may be removed, as seen in fig. 1, to receive the base of the tee to allow the base to be suitably fastened directly to the upper surface of the platform. While the base may be attached to the upper surface by means of a suitable adhesive, it would be preferable for the tee to be capable of removal from the platform, permitting its replacement. In such an instance, hook and loop fastening material such as that sold under the trademark "VELCRO" may be used as seen in fig. 4. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Irving into the disclosed inventions of Lee and Pacheco. One would be motivated to combine the teachings of Irving with the disclosed inventions of Lee and Pacheco in order to, allow golf player to easily attach and remove the golfer practice device from carpet (fabric).

**Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco (USPN 5,735,751) in further view of Irving (USPN 5,259,622).**

The disclosures of Lee, Pacheco and Irving have been discussed above and are, therefore, incorporated herein. However, Lee and Pacheco lack in disclosing the sound is that of a ball falling into a cup or a human voice. As discussed above, Pacheco taught a sound synthesizer that produces a sound when the golf ball hits the target (col. 3:25-33). It would have been obvious to

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one of ordinary skill in the art at the time the invention was made to incorporate the sound of a ball falling into a cup or a human voice into the disclosed inventions of Lee, Pacheco and Irving. One would be motivated to implement the sound of a ball falling into a cup or a human voice into the disclosed inventions of Lee, Pacheco and Irving in order to, diversify the selection of sounds that can be heard by the sound synthesizer.

#### **Response to Arguments**

Applicant's arguments with respect to claims 1-6 and 9-22 have been considered but are moot in view of the new ground(s) of rejection.

#### **Allowable Subject Matter**

Claims 9, 14 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to golf practice devices:

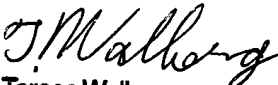
USPN 4,925,191 Ogilvie discloses a putting target.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached at (703) 308-1327. The USPTO official fax number is (703) 872-9306.

*RM*

RM  
October 23, 2003

  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700